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SIPDIS

SENSITIVE

DEPT FOR WHA/AND, WHA/EPSC, EB/CIP
COMMERCE FOR 4331/MAC/WH/MCAMERON
USTR FOR KENNETH SCHAGRIN, JONATHAN MCHALE
FCC INTERNATIONAL BUREAU FOR ETALAGA

E.O. 12958: N/A
TAGS: ECPS ECON ETRD EINV PE
SUBJECT: USTR DISCUSSES MOBILE TERMINATION RATES WITH MINISTRY, OSIPTEL

Ref: Lima 2205

¶1. (SBU) Summary. During the ninth round of U.S.-Andean Free Trade negotiations, USTR lead telecommunications negotiator Ken Shagrin met with both the Ministry of Communications (MTC) and Osiptel (Peru's telecommunications regulator) to discuss the lack of competition in the telecommunications sector, as a result of Peru's high mobile termination rates. Both MTC and Osiptel officials highlighted that the new provisions established for Telefonica's takeover of BellSouth, as well as the expected entrance of America Movil by the end of the year, should improve sectoral competition. Osiptel, which is currently establishing a new cost model for mobile termination rates, indicated that the new rate should be in place by the end of June. End Summary.

Meeting with MTC

¶2. (SBU) USTR lead telecommunications negotiator Ken Shagrin met with Vice Minister of Communications Juan Pacheco on April 18 to discuss the competitiveness of Peru's telecommunications sector. Shagrin noted that Peru's abnormally high mobile termination rates, which average $.21 per call, make the market uncompetitive. While acknowledging that Osiptel is planning to regulate the rate, Shagrin expressed concern that Osiptel would not meet its deadline. Vice Minister Pacheco agreed that Osiptel must remedy the situation quickly, which would allow for more competition and therefore penetration in the mobile market, and promised to put pressure on Osiptel.

¶3. (SBU) Pacheco acknowledged that Telefonica currently has an unfair advantage in the market but pointed out that the "conditional" fusion of Telefonica and BellSouth seeks to limit Telefonica's advantage (see reftel) and improve competition in the market. Pacheco continued, stating that Telefonica can lose all of its licenses if it incurs too many infractions. He also cautioned that Nextel must expand its services and coverage to become more competitive. He expressed disappointment that Nextel did not bid on the fourth band, claiming that it could have improved Nextel's position vis-a-vis the other carriers (reftel).

Then on to Osiptel

¶4. (SBU) Shagrin, accompanied by Commercial Counselor, then met with Edwin San Roman (president) and Jaime Cardenas (acting General Manager) of Osiptel. San Roman began the meeting by noting that Osiptel has been working to regulate the mobile termination rate since July 2004. Osiptel has received cost data from all companies and, working with several consultants (including a former FCC employee), is analyzing the data to establish the new cost methodology. San Roman expects to publish the new rate and cost methodology for public comment by May. Assuming all goes according to plan, the new rate should be in place by the end of June.

¶5. (SBU) Shagrin noted that while mobile termination rates are decreasing around the world, Peru's rates have yet to change. San Roman reiterated that Osiptel does not set the rates, but rather companies negotiate the rate among themselves. Despite conventional thought, competition between the companies has not driven the rates. Since 2004, Osiptel, worried about the consumers, has requested all mobile companies to lower their prices by 30 percent. Shagrin, offering the Philippines as a model, argued that mobile carriers have to know that the regulators are willing to act decisively; otherwise they are not inclined to lower rates.

¶6. (SBU) San Roman emphasized that Peru is moving toward a cost-based rate. Shagrin then inquired as to what the costs actually are. He noted that during a recent meeting between USTR and Telefonica, Telefonica complained that doing

business in Peru is expensive due to terrain, the high percentage of people living under the poverty line (and are thus unable to pay for service), and the MTC's build out requirements. San Roman stated that Telefonica was not requesting a higher rate, although he declined to pinpoint which company was. He noted that the different technologies in Peru keep costs high. Citing a Chilean study, San Roman claimed that if Peru had only one type of mobile technology that could be mass-produced, costs would be lower. San Roman also confirmed that although the MTC does not oblige companies to build out services, MTC recently required that Telefonica expand services to poorer localities. Any new operators that enter the market, however, must meet new MTC regulations requiring mobile companies to expand services to 15 provinces.

¶7. (SBU) But will the new mobile termination rate model show whether any of the mobile competitors builds in additional costs? San Roman indicated that the model would establish a reasonable mobile termination rate. Shagrin inquired as to whether Osiptel would periodically review each company's obligations. San Roman reiterated that Osiptel is independent, but it plans on becoming more involved in the regulation of the market. Osiptel will also review each company's technical studies in an effort to link them to the future development of the telecommunications sector.

Comment

¶8. (SBU) Both the Ministry of Communications as well as Osiptel understand their WTO obligations to improve competitiveness in the mobile sector. MTC took the bull by the horns when it established competition prerequisites for Telefonica's take over of BellSouth. San Roman appears confident that the new rate, which should be in place by the end of June, will level the playing field among mobile providers.

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